

**FINAL**  
Minutes  
IJA Meeting June 9, 2003  
Toronto, Ontario

Attendees

Greg MacCallum, PEI  
Deborah McNevin, Yukon  
Doug Mah, Alberta  
Patty Cunningham, Alberta  
Pam Cohen, British Columbia  
Terry Smith, Saskatchewan  
Cynthia Mendes, Ontario  
Donna Strong, Newfoundland  
Mary-Anne Hook, Northwest Territories & Nunavut  
Janet Curry, Nova Scotia  
Lori Ferguson Sain, Manitoba  
Pascale Goulet, Quebec  
Brenda Croucher, AWCBC

Regrets:

Jean Landry, New Brunswick

Attending for Specific Agenda Items

Maureen Mullen, Ontario  
Graham Smith, Ontario  
Richard Grant, Ontario

Review of Previous Minutes

The April 22, 2002 IJA Committee meeting minutes were reviewed and accepted.

Moved: Lori Ferguson Sain

Seconded: Greg MacCullum

Minutes to be distributed to the Heads of Delegations

**Action: Brenda Croucher**

Business Arising Out of April 22, 2002 Minutes

Follow Up with CTA

Pam Cohen noted that the response from the Trucking Industry regarding the satisfaction with the IJA Agreement was very positive. The Trucking Industry are extremely pleased with the agreement and were advised that discussion would be taking place regarding Appendix E becoming a permanent component of the IJA Agreement.

### Follow Up with Financial Comparability Committee

Discussion took place at the April 22, 2002 meeting with respect to the exclusion of cost reimbursement requests in the days to first pay statistic and that reimbursement requests should not be double counted as a claim by the reimbursing board for the purposes of this statistic. Lori Ferguson Sain noted a stand down of this item until a later date.

### Section 7-Hearing Loss-Inclusion/Exclusion

The Master Hearing Loss Template was prepared to evaluate hearing loss claim activity across Canada.

Following discussion it was agreed that Coordinators would follow up on hearing loss claims reported in the template under 1 a), b) and c) to confirm if claimants were compensated by other jurisdictions and were not “falling through the cracks”. This will be accomplished through the completion and submission of their responses via a template to the Association.

**Action:** IJA Coordinators

**Date Due:** July 15, 2003

A template will be prepared and distributed to assist with obtaining the information required to address this issue

**Action:** Brenda Croucher

The review of jurisdictional positions with respect to the inclusion and exclusion of HL in the IJA Agreement revealed that all jurisdictions, except Ontario are in general agreement with continuing with the exclusion of HL. Ontario was asked to reconsider their position should the template results indicate that hearing loss claims are not falling through the cracks

**Action:** Cynthia Mendes

### Review of Cost Reimbursement/AAP Statistics

General discussion took place with respect to whether the intent of the agreement was being met under the cost reimbursement and AAP provisions.

Saskatchewan is discussing their position regarding their participation in the AAP.

It was noted that it is important to remember that the AAP is a voluntary procedure. There was agreement that there is general satisfaction with the AAP.

### IJA Agreement –Appendices

General discussion took place with respect to whether Section 7, Appendix C-Cost Reimbursement and Section E-AAP should be made permanent components of the IJA Agreement (currently under pilot status).

Ontario requested that a working group be struck to assist with addressing operational issues i.e. definitions. Ontario noted that there is concern that the IJA could be seen as a

“gentlemen’s agreement” which is not binding and that prior to agreeing to the AAP becoming permanent, this issue should be addressed. It was noted that the Dispute Resolution Mechanism should be utilized in cases where parties to the agreement are in dispute. Alberta and Saskatchewan noted their success with the Dispute Resolution Process. Prince Edward Island noted that the issue between their jurisdiction and Ontario never proceeded through the entire Dispute Resolution Process and that resolution resulted in an agreement to disagree.

Ontario noted that Ontario is undecided as to whether there will be agreement to making Cost Reimbursement/Appendix C permanent. .

Quebec noted agreement with the principles but advised that parts of the agreement are not practical in theory due to the complexity of the agreement. It was further noted that there might be cases that are going undetected as IJA Claims. Manitoba indicated that it is important to identify these complex cases, as it may be an issue of training. British Columbia noted that their experience has shown that it is better to have designated adjudicators handle IJA cases as opposed to being handled by all adjudicators.

Manitoba, Saskatchewan, Yukon, Alberta, British Columbia, Northwest Territories & Nunavut, Prince Edward Island, Newfoundland & Labrador and Nova Scotia noted their support to have one document that incorporates all appendices and implementation of Appendix C & E and Section 7 on a permanent basis.

Newfoundland & Labrador suggested that a process be put in place to discuss claims issues.

It was agreed that each jurisdiction would forward copies of any IJA process documents they may have developed to the Association for distribution to committee members.

**Action:** IJA Committee

Quebec suggested that more information is required for stakeholders i.e. similar to the brochure previously prepared.

Maureen Mullen, Graham Smith and Richard Grant joined the meeting.

#### Adjudication Manual for Occupational Disease

Maureen Mullen advised of the availability of the Adjudication Manual for Occupational Disease and advised that she would forward a copy to IJA Coordinators via e-mail.

**Action:** Maureen Mullen

#### Occupational Disease Case –Ontario, Manitoba and Quebec

Maureen Mullen presented background information on a case, its implications with respect to the IJA and requested Manitoba and Quebec’s comments regarding the status of Ontario’s request for reimbursement. Maureen Mullen noted that employer information contained in the Mining Master File, a highly accurate resource, avoids the duplication of investigation among jurisdictions and had been forwarded to Ontario and

Manitoba. Both Manitoba and Quebec advised that they would follow up on this case and contact Maureen Mullen regarding the outcome.

**Action:** Manitoba and Quebec

It was also agreed that Ontario would forward the Mining Master File with respect to this case to Quebec

**Action:** Ontario.

The case is to be included on the next IJA Committee meeting agenda

**Action:** AWCBC

#### AAP-Treatment of Pilot Cars

Discussion took place with respect to the treatment of pilot cars that accompany interjurisdictional trucks. Graham Smith circulated survey results that captured jurisdiction positions on the following:

- Allow supply of truck drivers business into AAP?
- Investigate if in interjurisdictional trucking?
- Definition of interjurisdictional trucking?
- Removing ineligible employer from AAP?

Graham Smith noted that some jurisdictions would allow the supply of pilot cars to be included and part of the AAP. The Yukon noted that this is an issue of importance to their jurisdiction, as the question has been raised in the past year.

Graham Smith agreed to obtain clarification and forward to the Association as to whether these companies would be members of provincial trucking associations and whether they are required to obtain Workers' Compensation coverage.

**Action:** Graham Smith

**Due:** June 30, 2003

British Columbia noted that they would be in favour of consideration of inclusion of pilot cars, pending further information from the OTA. Alberta advised that they would include Pilot Car drivers in the AAP. Yukon advised they would include pilot car services in the AAP. Manitoba advised they would include if this activity was incidental to trucking. Saskatchewan advised they would include if pilot cars were synonymous with trucking. New Brunswick note they would allow if within the trucking industry. Quebec advised that pilot cars must be in business of transporting goods and part of the trucking company to be considered for inclusion in the AAP.

Maureen Mullen, Graham Smith and Richard Grant departed the meeting.

#### NAFTA

Pam Cohen provided an update about a meeting she attended with the Commission for the Cooperation of Labor that hosted a meeting to discuss Cross Border Trucking. The intent of the meeting was for the Commission to obtain information on each county's experience on cross boarder injuries. i.e. Health Care

Upon Pam Cohen's presentation of the IJA at the meeting, the attendees commended Canada for having such an agreement that is unique to the world and on the success in gaining consensus across Canada on the agreement.

Pam Cohen advised that the meeting entailed information sharing and no action or recommendations were forthcoming. The Commission for Labor Cooperation will be using the information provided by the focus group to update a book on compensation being written by a member of the Commission.

#### AWCBC Updates

Brenda Croucher provided the committee with updates on the 2003 Congress, Public Forum and Learning Symposium programs and registration details, an overview of the new AWCBC Strategic Plan, including the key goals approved in February 2003 and update on the BIA presentation to Senate which attempts to regain our creditor status.

#### IJA Workplan

The Committee was reminded that the Executive Sponsor, Ralph McGinn had forwarded a copy of Committee Roles and Responsibilities to the committee Chair and requested that Workplan updates be prepared and forwarded to the AWCBC by July 1, 2003.

It was noted that the Executive Sponsor is keenly interested in the work of the committee and extends his thanks for the receipt of timely updates on committee activities.

Following a review of the workplan, it was suggested that the committee might wish to consider the exploration of new types of occupational diseases i.e. firefighter etc that could be considered for inclusion under section 7 and the preparation of additional procedures for inclusion in the workplan.

Pam Cohen is to update the Workplan and forward to the AWCBC.

Action: Pam Cohen

**Due:** July 1, 2003

#### Dependants

British Columbia reminded the committee of the importance of ensuring that updated information about dependants in fatal claims in cases where reimbursement is being requested.

The Committee had previously agreed that a covering letter, advising the reimbursing Board of the current status of dependants, including birth dates, whether in school or out of school, would be included in ongoing annual requests for reimbursement. In two cases noted by BC, reimbursements to other jurisdictions resulted in overpayments in the last year, as updates weren't provided, and it was later found that one dependant had died, and another had reached the age of majority and was no longer in school, and therefore, would not have been paid under BC regulations.

**Action:** IJA Coordinator

#### Interjurisdictional Medical Assessment Requests

Quebec provided an update on the changes their jurisdiction are undergoing with respect to an on-line program to request medical assessments. It was requested that each jurisdiction provide the names and contact information of two individuals who will be subscribing to this service. A User ID and Password will be provided to these individuals. Implementation is expected in 2004.

**Action:** IJA Coordinators

#### Election Forms: Application of Section 4 of the IJA Procedure

Quebec will forward contact names to the AWCBC for distribution to IJA Coordinators.

**Action:** Pascale Goulet

Discussion took place with respect to requirements related to the distribution of election forms. It was agreed that jurisdictions ensure that when workers elect to claim in one jurisdiction, that this jurisdiction copy the election and application to all other jurisdictions. This is to be included in the Procedures section of the IJA Reference Manual.

**Action:** Brenda Croucher

Saskatchewan agreed to forward Quebec a copy of a letter to the worker relevant to injuries occurring in other jurisdictions.

**Action:** Terry Smith

It was noted that elections should precede requests for reimbursements.

#### Cost Reimbursement –Internal Changes

Quebec noted that there would be internal changes at the CSST regarding cost reimbursement, which she will email to the AWCBC for distribution.

**Action:** Pascale Goulet

Updated information for IJA Operational Contacts is to be forwarded to the AWCBC for distribution and inclusion in the Reference Manual.

**Action:** IJA Coordinators

Due: July 30, 2003

#### IJA Coordinator Role

Removed from agenda.

#### Commission des lésions professionnelles –Decision previously distributed at 2002 Meeting

Quebec provided an update on a decision with respect to the following case. A truck driver who resided in Ontario, but was employed by a Quebec firm, was injured in the U.S. The workers claim was denied in Ontario because he did not work in this province and was denied in Quebec because he was not a resident of Quebec. The worker appealed, claiming that he should have been covered, per the IJA. A further update will be provided, based on the outcome of the workers appeal under the Charter, since he

cannot appeal under the IJA. It was noted that while some cases may not result in the right to claim in one's home jurisdiction, or jurisdiction of hire, it does not mean that the worker has fallen between the cracks. The injury took place in the U.S. The IJA does not apply, and the worker and/or employer is responsible for ensuring either self coverage (in case of an owner/operator), or other insurance, based on where the work is to be performed, if there is no work being performed in a Canadian jurisdiction.

Highlights an emerging issue that the committee may see more of in the future. Training on the Job's and lack of agreement with United States (out of province coverage) may also become issues for the committee to consider.

#### Increase in Maximum Wage Rates

Saskatchewan advised that their maximum has increased to \$51,900 and that retroactivity of increased back to 2002 will impact reimbursements sent to jurisdictions by Saskatchewan. Notices will be sent to jurisdictions when this occurs.

#### Timing of Paying Reimbursement Claims

Saskatchewan requested that jurisdictions consider reimbursing the oldest claims first (Date of Invoice) as there are instances where reimbursements are being received on new requests when older requests have not been processed.

#### IJA Jurisdictional Appendices

It was agreed that jurisdictions would submit updated IJA Jurisdictional Appendices to the AWCBC.

**Action:** IJA Coordinators

**Due:** October 1, 2003

Lori Ferguson-Sain agreed to draft an amalgamated agreement, which includes Appendix C & E to produce an agreement that is more user friendly and easier to understand and share with stakeholders.

**Action:** Lori Ferguson Sain

#### Other Business

BC advised the group that significant legislative changes would be impacting reimbursement for claims with injury dates on or after June 30/02. Changes include a move from wage rates at 75% of gross to 90% of net. The most significant impact may be seen in BC's ability to reimburse pension amounts, where there has been a loss of earnings, as the bar for the test for this is now extremely high. Additionally, for decisions after March 3, 2003, BC's ability to reopen/reconsider after 75 days from the date of the original decision, has specific limitations that may impact reimbursement of claims from other jurisdictions where re-openings/reconsiderations have occurred.

#### Next Meeting

Toronto, Ontario, WSIB on April 19, 2004

Meeting adjourned